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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,070	08/17/2001	Vincentius Paulus Buil	NL000434	5575

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
WASSUM, LUKE S	
ART UNIT	**PAPER NUMBER**
2167	

MAIL DATE	DELIVERY MODE
02/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/932,070	Applicant(s) BUIL ET AL.	
	Examiner Luke S. Wassum	Art Unit 2167	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *10*.
   Claim(s) rejected: *1-9,11-15 and 17-21*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Luke S. Wassum
Primary Examiner
Art Unit 2167

Continuation of 11. does NOT place the application in condition for allowance because:

The Applicants' arguments have been considered but are not persuasive.

In response to the Applicants' argument regarding the rejections of claims 18-20 under 35 U.S.C. § 112 first paragraph that "...perhaps this rejection was inadvertently copied from the last Office Action since Applicants previously provided the location in the specification where the subject matter is adequately described...", the examiner directs the Applicants' attention to the Final Rejection mailed 21 November 2006, wherein the insufficiency of the disclosure was discussed at length in paragraph 32, pages 18-20.

In response to the Applicants' argument that the rejections of claims 1 and 11 are inconsistent, the examiner sincerely apologizes for the confusion. In claim 11, the rejection of record cites portions of the Cluts reference as anticipating the 'associating an information unit with an attribute value for a plurality of attributes'. However, in the rejection of claim 1, the examiner inadvertently cited those same passages separately, one for the 'attribute value' and the rest for the 'plurality of attributes'. The cited passages were all meant to pertain to the entire limitation, which should be apparent from the fact that the examiner specifically cited attribute values disclosed by the reference in the 'plurality of attributes' citation. For the Applicants' clarification, all of the citations from the Cluts reference refer to the entire 'associating an information unit with an attribute value for a plurality of attributes' limitation, as is written in the rejection of claim 11.

In response to the Applicants' argument that the categories and subcategories disclosed by the Cluts reference are not analogous to the claimed plurality of attributes (pages 11-13 of the amendment), the examiner respectfully disagrees, and refers the Applicant to paragraph 34 of the Final Rejection mailed 21 November 2006, where this argument was previously addressed. In summary, each specific category/subcategory constitutes an attribute, and the weight given to the specific category/subcategory constitutes the attribute value.

In response to the Applicants' argument that the Cluts reference fails to disclose the automatic selection of units without interaction by a user, the examiner respectfully disagrees. The claim recites the selection and presentation being made without interaction by a user based upon a plurality of attributes. The user interaction disclosed by the Cluts reference involves the setting of the claimed plurality of attributes, not the selection or presentation of units. The Applicants' own disclosure most certainly includes analogous functionality. For instance, on page 5, lines 22-32, the specification discusses the user's selection of criteria to be applied to the future selection of units. Once this criteria is input by the user, the system can select and present units without interaction by a user. The disclosure in the Cluts reference of the setting of the Style EQ is completely analogous to the Applicants' disclosure.

In response to the Applicants' argument that selecting songs for playback and selecting songs for a playlist are not the same, and that the Office never responded to this previously-made argument, the examiner respectfully disagrees. In the Final Rejection, mailed 21 November 2006, this argument was addressed in paragraph 33 on page 20. For the convenience of the Applicants, the response is repeated herein: The addition of the limitation "for playback" merely indicates an intended use for the presented units, and is thus accorded little patentable weight. Furthermore, the songs presented to the user in the Cluts reference are obviously presented for playback, since the playback of music is the entire purpose of the disclosed system.

In response to the Applicants' argument that the Cluts reference fails to disclose presenting the songs to the user, but only presenting a list of songs, the examiner respectfully disagrees. As stated above, the entire purpose of the system as disclosed by Cluts is to present music to a user that is consistent with the user's preferences. Column 1, lines 8-10 makes this clear: "[The present invention] relates to methods for selecting and playing audio selections on the basis of their subjective content." The automatic and without user interaction nature of the system disclosed by the Cluts reference has been discussed above. The random nature is disclosed at col. 18, lines 51-54 et seq., as cited in the rejection of record.

The rejections of record are maintained.